

Introduced by Senators Torlakson and Speier

February 20, 2004

An act to amend Sections 23540, 23546, 23550, 23560, 23566, 23622, and 23646 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1694, as introduced, Torlakson. Driving under the influence: sanction.

(1) Under existing law, it is unlawful to drive a motor vehicle while under the influence of alcohol, a drug, or both, or 0.08% or more, by weight, of alcohol in one's blood, or while addicted to the use of a drug. There is another crime of driving under the influence of alcohol, a drug, or both, or with 0.08% or more, by weight, alcohol in one's blood, and causing injury to another person. Under existing law, for violations of each of these offenses, commonly known as driving under the influence and driving under the influence causing injury, respectively, a court may impose sanctions, as specified. Existing law imposes increased sanctions on persons who have previously been convicted of DUI offenses within 7 years of the commission of the current offense.

This bill would delete the 7-year condition as a condition to imposing the increased sanctions on repeat offenders. Because this would thereby increase the level of service on local law enforcement agencies, this bill would impose a state-mandated local program.

(2) Existing law authorizes a court to order a person convicted of a DUI offense to attend an alcohol and drug problem assessment program.

This bill would require a court to order a person who has previously been convicted of disorderly conduct based on being found in a public

place under the influence of alcohol or drugs, and who is currently convicted of a DUI offense to attend and complete that program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Driving under the influence of alcohol or drugs, or both,
4 (DUI) continues to be a significant threat to the public health and
5 safety.

6 (b) Despite significant progress and declining rates of DUI in
7 the last two decades, fatalities associated with this conduct have
8 increased for the past several years.

9 (c) Two hundred thirty-six more people died from DUI conduct
10 in 2001 than did in 1998.

11 (d) Nearly 180,000 people were arrested for DUI offenses in
12 2001, including 25 percent of whom were repeat offenders.

13 SEC. 2. Section 23540 of the Vehicle Code is amended to
14 read:

15 23540. If ~~any~~ a person is convicted of a violation of Section
16 23152 and the offense occurred ~~within seven years of~~ following a
17 separate violation of Section 23103, as specified in Section
18 23103.5, 23152, or 23153, ~~which~~ that resulted in a conviction, that
19 person shall be punished by imprisonment in the county jail for not
20 less than 90 days nor more than one year and by a fine of not less
21 than three hundred ninety dollars (\$390) nor more than one
22 thousand dollars (\$1,000). The person's privilege to operate a
23 motor vehicle shall be suspended by the Department of Motor
24 Vehicles pursuant to paragraph (3) of subdivision (a) of Section
25 13352. The court shall require the person to surrender the driver's
26 license to the court in accordance with Section 13550.



SEC. 3. Section 23546 of the Vehicle Code is amended to read:

23546. (a) If ~~any~~ a person is convicted of a violation of Section 23152 and the offense occurred ~~within seven years of~~ *following* two separate violations of Section 23103, as specified in Section 23103.5, 23152, or 23153, or any combination thereof, ~~which~~ *that* resulted in convictions, that person shall be punished by imprisonment in the county jail for not less than 120 days nor more than one year and by a fine of not less than three hundred ninety dollars (\$390) nor more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles as required in paragraph (5) of subdivision (a) of Section 13352. The court shall require the person to surrender his or her driver's license to the court in accordance with Section 13550.

(b) ~~Any~~ A person convicted of a violation of Section 23152 punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the conviction. The person shall be advised of this designation pursuant to subdivision (b) of Section 13350.

SEC. 4. Section 23550 of the Vehicle Code is amended to read:

23550. (a) If ~~any~~ a person is convicted of a violation of Section 23152 and the offense occurred ~~within seven years of~~ *following* three or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination thereof, ~~which~~ *that* resulted in convictions, that person shall be punished by imprisonment in the state prison, or in a county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars (\$390) nor more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) ~~Any~~ A person convicted of a violation of Section 23152 punishable under this section shall be designated as a habitual traffic offender for a period of three years, subsequent to the

1 conviction. The person shall be advised of this designation
2 pursuant to subdivision (b) of Section 13350.

3 SEC. 5. Section 23560 of the Vehicle Code is amended to
4 read:

5 23560. If ~~any~~ *a* person is convicted of a violation of Section
6 23153 and the offense occurred ~~within seven years of~~ *following* a
7 separate violation of Section 23103, as specified in Section
8 23103.5, 23152, or 23153 ~~which~~ *that* resulted in a conviction, that
9 person shall be punished by imprisonment in the state prison, or
10 in a county jail for not less than 120 days nor more than one year,
11 and by a fine of not less than three hundred ninety dollars (\$390)
12 nor more than five thousand dollars (\$5,000). The person's
13 privilege to operate a motor vehicle shall be revoked by the
14 Department of Motor Vehicles pursuant to paragraph (4) of
15 subdivision (a) of Section 13352. The court shall require the
16 person to surrender the driver's license to the court in accordance
17 with Section 13550.

18 SEC. 6. Section 23566 of the Vehicle Code is amended to
19 read:

20 23566. (a) If ~~any~~ *a* person is convicted of a violation of
21 Section 23153 and the offense occurred ~~within seven years of~~
22 *following* two or more separate violations of Section 23103, as
23 specified in Section 23103.5, or Section 23152 or 23153, or any
24 combination of these violations, ~~which~~ *that* resulted in
25 convictions, that person shall be punished by imprisonment in the
26 state prison for a term of two, three, or four years and by a fine of
27 not less than one thousand fifteen dollars (\$1,015) nor more than
28 five thousand dollars (\$5,000). The person's privilege to operate
29 a motor vehicle shall be revoked by the Department of Motor
30 Vehicles pursuant to paragraph (6) of subdivision (a) of Section
31 13352. The court shall require the person to surrender the driver's
32 license to the court in accordance with Section 13550.

33 (b) If ~~any~~ *a* person is convicted of a violation of Section 23153,
34 and the act or neglect proximately causes great bodily injury, as
35 defined in Section 12022.7 of the Penal Code, to any person other
36 than the driver, and the offense occurred ~~within seven years of~~
37 *following* two or more separate violations of Section 23103, as
38 specified in Section 23103.5, or Section 23152 or 23153, or any
39 combination of these violations, ~~which~~ *that* resulted in
40 convictions, that person shall be punished by imprisonment in the



1 state prison for a term of two, three, or four years and by a fine of
2 not less than one thousand fifteen dollars (\$1,015) nor more than
3 five thousand dollars (\$5,000). The person's privilege to operate
4 a motor vehicle shall be revoked by the Department of Motor
5 Vehicles pursuant to paragraph (6) of subdivision (a) of Section
6 13352. The court shall require the person to surrender the driver's
7 license to the court in accordance with Section 13550.

8 (c) If ~~any~~ a person is convicted under subdivision (b), and the
9 offense for which the person is convicted occurred ~~within seven~~
10 ~~years of following~~ four or more separate violations of Section
11 23103, as specified in Section 23103.5, or Section 23152 or 23153,
12 or any combination of these violations, that resulted in
13 convictions, that person shall, in addition and consecutive to the
14 sentences imposed under subdivision (b), be punished by an
15 additional term of imprisonment in the state prison for three years.

16 The enhancement allegation provided in this subdivision shall
17 be pleaded and proved as provided by law.

18 (d) ~~Any~~ A person convicted of Section 23153 punishable under
19 this section shall be designated as a habitual traffic offender for a
20 period of three years, subsequent to the conviction. The person
21 shall be advised of this designation pursuant to subdivision (b) of
22 Section 13350.

23 (e) ~~Any~~ A person confined in state prison under this section
24 shall be ordered by the court to participate in an alcohol or drug
25 program, or both, that is available at the prison during the person's
26 confinement. Completion of an alcohol or drug program under this
27 section does not meet the program completion requirement of
28 paragraph (6) of subdivision (a) of Section 13352, unless the drug
29 or alcohol program is licensed under Section 11836 of the Health
30 and Safety Code, or is a program specified in Section 8001 of the
31 Penal Code.

32 SEC. 7. Section 23622 of the Vehicle Code is amended to
33 read:

34 23622. (a) In any case charging a violation of Section 23152
35 or 23153 and the offense occurred ~~within seven years of following~~
36 one or more separate violations of Section 23103, as specified in
37 Section 23103.5, ~~which~~ that occurred on or after January 1, 1982,
38 23152, or 23153, or any combination thereof, ~~which~~ that resulted
39 in convictions, the court shall not strike any separate conviction of
40 those offenses for purposes of sentencing in order to avoid

1 imposing, as part of the sentence or term of probation, the
2 minimum time of imprisonment and the minimum fine, as
3 provided in this chapter, or for purposes of avoiding revocation,
4 suspension, or restriction of the privilege to operate a motor
5 vehicle, as provided in this code.

6 (b) In any case charging a violation of Section 23152 or 23153,
7 the court shall obtain a copy of the driving record of the person
8 charged from the Department of Motor Vehicles and may obtain
9 any records from the Department of Justice or any other source to
10 determine if one or more separate violations of Section 23103, as
11 specified in Section 23103.5, ~~which~~ *that* occurred on or after
12 January 1, 1982, 23152, or 23153, or any combination thereof,
13 ~~which~~ *that* resulted in convictions, have occurred ~~within seven~~
14 ~~years of prior to~~ the charged offense. The court may obtain, and
15 accept as rebuttable evidence, a printout from the Department of
16 Motor Vehicles of the driving record of the person charged,
17 maintained by electronic and storage media pursuant to Section
18 1801 for the purpose of proving those separate violations.

19 (c) If any separate convictions of violations of Section 23152
20 or 23153 are reported to have occurred within 10 years of the
21 charged offense, the court shall notify each court where any of the
22 separate convictions occurred for the purpose of enforcing terms
23 and conditions of probation pursuant to Section 23602.

24 SEC. 8. Section 23646 of the Vehicle Code is amended to
25 read:

26 23646. (a) Each county alcohol program administrator or the
27 administrator's designee shall develop, implement, operate, and
28 administer an alcohol and drug problem assessment program
29 pursuant to this article for each person described in subdivision
30 (b). The alcohol and drug problem assessment program may
31 include a referral and client tracking component.

32 (b) (1) The court shall order a person to participate in an
33 alcohol and drug problem assessment program pursuant to this
34 section and Sections 23647 to 23649, inclusive, and the related
35 regulations of the State Department of Alcohol and Drug
36 Programs, if the person was convicted of a violation of Section
37 23152 or 23153 that occurred ~~within seven years of following~~ a
38 separate violation of Section 23152 or 23153 ~~and~~ *that* resulted in
39 a conviction, the person was required to attend a licensed program
40 pursuant to a court order, and the person has once failed to comply

1 with the rules and policies of the licensed program, other than a
2 rule relating to the payment of fees, in accordance with the rules
3 and regulations of the state department.

4 (2) A court may order ~~any~~ a person convicted of a violation of
5 Section 23152 or 23153 to attend an alcohol and drug problem
6 assessment program pursuant to this article.

7 (3) *The court shall order a person convicted of a violation of*
8 *Section 23152 or 23153 who has previously been convicted of a*
9 *violation of subdivision (f) of Section 647 of the Penal Code to*
10 *attend and complete an alcohol and drug problem assessment*
11 *program under this article.*

12 (c) The State Department of Alcohol and Drug Programs shall
13 establish minimum specifications for alcohol and other drug
14 problem assessments and reports not later than September 30,
15 1999.

16 SEC. 9. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

